

NEWPORT BEACH HARBOR COMMISSION MINUTES
City Council Chambers
April 8, 2009

CALL TO ORDER 6:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Chairman Duffield, Commissioners Seymour Beek, John Corrough, Tim Collins, Don Lawrenz, Karen Rhyne and Ralph Rodheim were in attendance. Staff: Lorrie Arcese, Chris Miller and Shannon Levin

MINUTES: The minutes from the last meeting were approved.

ACTION ITEM

ACTION & APPEAL ITEMS

ITEM #1

Subject: ***General Harbor Commission Orientation - POSTPONED***

ITEM #2

Subject: ***Aerie Dock Project at 201-207 Carnation Avenue***

Issue: Should the Aerie project applicants at 201-207 Carnation Avenue be permitted to replace the existing double U-shaped float with a dock system capable of berthing 8 vessels for residents and 1 guest side-tie

Discussion: Chris presented the staff report on the project. Randy Mason with URS spoke on the technical concerns. He said there are 10 boat "lanes" in that channel. The boats berthed at Aerie will be moved to moorings or other places during storm events with wave action of 2 feet or more. Bryan Jeannette spoke on the parking issues, saying they will have at least 15-23 additional parking spaces on-site, beyond what is required by the Code.

- Commissioner Lawrenz presented a PowerPoint presentation on the project, showing what he feels are issues with the project. The storm wave conditions were only studied for the last five years, ignoring large storms of 1969 and 1990's. These storms happened before that time and they did a lot of damage. A 100 ft vessel may not have a safe mooring site in the case of a large storm event. Storms will affect the movement of sand and affect the sand dollar population. There are a lot of sand and shoals in this area and this needs more study. Conditions need to be listed if sand studies show a problem, such as who is responsible when dredging comes up. The 24 foot extension will go into public waters and needs to have reflectors. This could start a building boom with all the other slips in this area. The pier is to be set lower than usual attracting the sea lions to rest upon. What about fire suppression, trash and sewage?
- Commissioner Beek said that the problem also is that the project will occupy space that is now open. He said that there are no lanes in the harbor and the example has no meaning. This is one of the narrowest points. We need to restrict the 24 foot overhang and can restrict the side tie. All residents don't have to have a slip. 19 new pilings will affect the sand movement.
- Commissioner Rhyne asked who will move the boats during storm events and wave action. Are there moorings available and what are the other options if they need to move? What happens between 1.5 to 2 feet? A 100 foot boat is too massive and who will monitor the overhang?
- Commissioner Corrough said that this project is legally conforming and has not been kept under the radar. The EIR has not found any significant exceptions and

has documented recommended mitigations. The project has changed with previous requests. Every dock that sits out there now is in the same physical situation, subject to storm events, that this dock will be in if it is built. We need to set responsible improvements to the plans rather than just saying we are troubled by this project; give specific guidance and constructive recommendations. The proposed project has gone through multiple revisions. The unit to dock ratio is representative of the rest of the harbor. The Commission does want new docks in this harbor.

- Commissioner Collins said that we have given case by case exceptions for extensions, but in this case there is no basis to extend beyond the Pierhead line.
- Commissioner Rodheim said that the Bulkhead and Pierhead lines of the 1930's were made when the area was filled with sand and the City has not done its job in redrawing the lines. To follow those lines as they are currently is not wrong. The approval of all these large condo projects should not be happening and we may end up looking like Miami Beach. He does not support the project going out further than the neighboring docks. The surge tears up the boats and docks. He would like to have larger slips but not in this location. They stick out too far. We want the Planning Commission and City Council to see that the Harbor Commission will not support this project. There is no right of residents to have the right to have a pier.
- Chairman Duffield reminded everyone that storms go directly into our harbor as designed by the Army Corps. Putting in a jetty would be a solution to stop that action. There has been a lot of work put into the plan and we are not against new docks, but we are boaters who use the harbor, so there is knowledge. The City Council makes the ultimate decision, but we are boaters and can make recommendations. Storm events do happen, so we need a plan that will work. Why not come to the Harbor Commission to ask for advice, we would like to work with the applicant. Perhaps restrict the time that boats may be dock there during a storm season?

Public Comments:

- Kathleen McIntosh, 2495 Ocean Blvd., reminded everyone that the approval has not been granted yet. They could have up to 12 boats on the docks. Public access to the cove and marine outcropping would be restricted and maybe eliminated. Shoaling is a problem in that area. Sand comes from that area and is shoaling under the neighbors' docks. This project doesn't consider the problems the 2 adjacent properties will have when they want to dock boats larger than 17 feet. She hopes Harbor Resources denies the request and requests that marker buoys be put out for at least a month showing the lines of the project so everyone concerned can see how far out into the channel it will go and what will be taken away from them.
- Joe and Lisa Vallejo, who are not on the water and don't have a dock, wanted to add their explanation as to why no one is out that far in the channel. 73 years ago they thought this area would be built up with sand and even Channel Reef would not be allowed to build now. Wants to declare 1936 Harbor Lines null. She cited Municipal Code 17.50 Rules for Interpretation and Harbor Development Permits which says the application shall be denied if it may interfere with the rights of other permittees and oceanfront property owners and the application does not conform to the policies and regulations of the certified Local Coastal Program. They feel that the scenic and the visual outcropping will be covered up, but the applicant said the boats will be coming and going and won't be a problem. How often does that happen when all boats come and go all that often? Thank you for your consideration and time, we ask that you do the best for Newport Harbor.
- Marilyn Beck, 303 Carnation Ave. This project has not been passed by the City. There are many people with significant concerns with project size. The General Plan requests that developers of this project take a conservative approach in their projects. We worked hard to have responsible development included in the plan

so we would have responsible development within the City. This is a super-sized project, not conservative. I wish this meeting was out at the site to show you how hard the wind blows and how destructive it can be. Boats have capsized and docks have broken up.

- John Connelly, owns and resides at 401 Avocado Ave. and owns 2317 Bayside Drive, said if a 100 foot boat breaks free during wave action it will create significant damage to the boats and properties in the area. The extension will be a bump in the harbor that doesn't need to be there. No one receives prior notices of high wave occurrences so boats can be moved to safety. Owners could be out of town or unavailable to act. The boat parade could be impacted. This sets a precedent for everyone to build their docks out further into the harbor.
- Bud Razner, 2500 Ocean Blvd., is a supporter of the project and he says most people are. He was in the Harbor Patrol and knows the harbor. His work experience has taught him to look at all things, weigh all the sides and don't include personal feelings. Neighboring piers build to property lines so they may be impacted by Aerie. Accidents will always occur and liability should not be passed on to a new dock owner. Many people think they own the harbor. This project is a quality, responsible one and is a tax maker. The project provides a water element to clean the effluent that runs into the bay. The old structures need to be in place and need to look for reasons why it will work, not won't.

Action: The Commission provided comments on the environmental aspects of the dock system, as well as its overall design. Commissioner Beek made an advisory motion, "While not opposed to the expansion of the existing dock and its area and capacity we believe the size and configuration of the proposed dock project would create significant negative impact on, navigation and recreational boating in the harbor". The motion carried with all ayes. Harbor Resources will forward this input to the Planning Commission and the City Council who will review the entire project as a whole.

ITEM #3

Subject:

Newport Bay Marina at 2300 Newport Blvd. – Update

Issue:

The Harbor Commission heard an oral report on the status of the Newport Bay Marina located at 2300 Newport Boulevard.

Discussion:

The project was approved by Coastal Commission in February with special conditions. It has a lot of public access. The little channel is there because Pickle Weed grows there and need to be preserved. They hope to attract water related business to attract tourists. They don't have any commitments but will be consistent with the regulations. The buildings are protected from shipyard noise and disclosures are required. The guest slips are tight for the smaller boats but they will comply with the Fire Code. The commissioners felt it was a good, responsible plan.

Action:

Receive and file.

ITEM #4

Subject:

Harbor Projects and Funding Projections

Issue:

The City Council's Finance Subcommittee has requested an updated list of Harbor Commission approved projects and funding projections in order to plan for the future financial needs of the Harbor. The Harbor Commission reviewed the first draft at the March meeting and requested staff to return to the Commission with an updated draft for further review.

Discussion:

Chris was complimented on the new format for the report. Commission Lawrenz added that there needs to be a column for ongoing projects, such as Eelgrass.

Public Comments:

Mark Sites reminded everyone that fees will need to be raised to fund this. Funding sources need to be identified. We don't want to create any friction with the Army Corps as they already are giving us a hard time in approving dredging permits. He asked why we need to dredge in West Newport.

Action: The motion was carried to advise staff to forward the attached document to the Finance Committee with suggested changes.

SUB-COMMITTEE REPORTS:

- Mooring Subcommittee - Commissioner Duffield said that the boundaries are finalized and they are still working on the transferability issue, but almost complete. Chris said that the proposed CAD site may affect 20 moorings in area F. Commissioner Rodheim said that we need to go over the rules for rental of moorings that the Harbor Patrol follows.
- Marketing – A new guide document is being produced and will be presented to the Harbor Commission for comments.
- HAMP – The draft will be coming in May.

HARBOR RESOURCES UPDATE – Chris gave an update on the harbor. Please refer to the following website: *The update is posted at:* <http://www.city.newport-beach.ca.us/hbr> (*under Harbor Resources Updates*).

PUBLIC COMMENTS ON SUB-COMMITTEE REPORTS OR HARBOR RESOURCES UPDATE:

- Chuck South voiced a concern with the City's purchase of Lower Castaway, making it into a park. The City is losing facilities for equipment loading and unloading. Properties that have been for water related uses are being turned into condos or parks.
- Mark Sites said he supports what Chuck said and is also quite concerned. Commissioner Corrough advised that those concerned need to voice their concerns to the City Council, since they are the one that keep approving those projects.

COMMISSIONER'S ANNOUNCEMENTS OR MATTERS TO BE PLACED ON FUTURE AGENDAS FOR DISCUSSION, ACTION OR REPORT

- Duffy will present the Wakeless Wonder at the next meeting.

RECOMMENDED TOPICS FOR FUTURE AGENDAS:

- Harbor Area Management Plan - Final
- Update from Anchor Environmental concerning Confined Aquatic Disposal option for Lower Bay dredging
- Harbor Resources and water quality – staff's outreach efforts
- Evaluate fishing needs at the public piers
- Harbor Fee Study

DATE OF NEXT MEETING: May 13, 2009
City Council Chambers

ADJOURNMENT